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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/557,758	11/17/2005	Gregory L. Branch	110120.402	1471

31740 7590 08/09/2007
THOMAS LOOP
P.O. BOX 21466
SEATTLE, WA 98111

EXAMINER

KUHNS, ALLAN R

ART UNIT	PAPER NUMBER
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1732

MAIL DATE	DELIVERY MODE
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08/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/557,758	Applicant(s) BRANCH ET AL.	
	Examiner Allan Kuhns	Art Unit 1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-21, 23-25 and 28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-21, 23-25 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1.The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2.Claims 15-21, 24, 25 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumar et al. (5,684,055) in view of Grancio et al. (4,386,188) and Rubens et al. (4,693,856) as set forth in the previous Office action.

3.Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kumar et al. in view of Grancio et al. and Rubens et al. as applied to claims 15-21, 24, 25 and 28 above, and further in view of Kumar (5,223,545). Relevant teachings of Kumar and reason for their combination with the teachings of the other prior art relied upon are as set forth in previous Office actions.

4.Applicants' arguments filed July 5, 2007 have been fully considered but they are not persuasive. Applicants' arguments appear to substantially mirror the assertions made in the declaration of Mr. Vipin Kumar and therefore these arguments will be addressed in conjunction with the evaluation of that declaration.

5.The declaration under 37 CFR 1.132 filed July 5, 2007 is insufficient to overcome the rejection of claim 15 and those dependent thereon based upon Kumar et al., Grancio et al., Rubens et al., Lake and Kumar as set forth in the last Office action because: the declaration appears to imply a narrower scope for claim 15 than is required by the claim language and thus the declaration is not commensurate with the claims. For example, a second assertion of Mr. Kumar is that his earlier patent

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(5,684,055) does not disclose anything about "later" forming a polymeric sheet into a shaped article of manufacture. But the instant claim language (claim 15) is of sufficient breadth that the "forming" of step c) is readable on the situation, as described in Kumar et al. at column 5, lines 17 and 18, wherein a polymer sheet is "formed" into a foamed sheet.

With regard to the limitation of plasticizing gas, it is again submitted that a foamed sheet having a specific gravity of 0.3, as reported by Kumar et al. at column 6, line 1, would inherently have more than 0.5 percent of gas, such that the formed foamed sheet described in Kumar et al. at column 5, line 18 would meet the gas concentration requirement of claim 15.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allan Kuhns whose telephone number is (571) 272-1202. The examiner can normally be reached on Monday to Thursday from 7:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Allan R. Kuhns

ALLAN R. KUHNS
PRIMARY EXAMINER AU 1732